

**REMARKS**

Claims 1-21, 23-47, 49-63, 65, 67, and 69-70 are currently pending. No claims have been amended herein.

**Rejections under 35 U.S.C. §102(e)**

Reconsideration is requested of the rejection of claims 1-21, 23-47, 49-63, 65, 67, and 69-70 under 35 U.S.C. §102(e) as being anticipated by Gatto, et al. (U.S. Patent No. 6,570,054).

Gatto, et al. disclose an absorbent article comprising a skin care composition. The skin care composition may comprise from about 0.001% to about 70% by weight of a skin care ingredient, from about 0.1% to about 25% by weight of a rheology agent, from 0 to 99.9% by weight of an emollient, and from about 5 to about 95% by weight of an immobilizing agent. The skin care composition has an elastic modulus of at least about 5 dynes/cm<sup>2</sup> measured at a strain of 0.2%, an oscillation frequency of 10 rad/sec, when measured at a temperature of 77°C, and an apparent viscosity of from about 1 to about 100,000 cps.

Initially, applicants note that the skin care composition disclosed in Gatto, et al. is not used on a tissue product. In contrast to the requirements of the present invention, Gatto, et al. is directed to absorbent articles comprising a skin care composition. The absorbent articles of Gatto, et al. include feminine hygiene garments (e.g., sanitary napkins, panty-liners, and tampons), diapers, incontinence briefs, diaper holders, and training pants.<sup>1</sup> In contrast, claim 1 is directed to a tissue product comprising a fibrous substrate material and a lubricating formulation, the lubricating formulation being present on the tissue product. Such tissue

products may include facial tissue, bath tissue, towels, hanks, napkins, and similar products.<sup>2</sup>

In support of its position, the Office has specifically cited column 25, line 20 to column 26, line 20 of Gatto, et al. However, this passage of Gatto, et al. merely defines "absorbent article"<sup>3</sup> and describes the general configuration of an absorbent article. Applicants note that while this cited passage of Gatto, et al. does mention "tissue including tissue wraps and tissue laminates", these are merely listed as examples of suitable materials for use in the absorbent core of an absorbent article.<sup>4</sup> Gatto, et al. clearly do not disclose a tissue product, as set forth in applicants' claim 1, and more particularly, do not disclose a lubricating formulation on a tissue product.

Furthermore, Gatto, et al. do not to disclose any of the specific rheology enhancers listed in claim 1. For instance, col. 15, lines 58-65 of Gatto, et al. lists various polymeric rheology enhancers that may be used in the compositions of Gatto, et al. Specifically, this passage of Gatto, et al. states:

Also useful herein are polymeric rheological agents. Nonlimiting examples are polymethacrylate polymers, polymethacrylate and styrene copolymers, which can optionally be crosslinked a common crosslinking agent, polyethylene, polyethylene and acrylic acid or vinyl acetate copolymers, polyisobutylene, poly- $\alpha$ -olefins, bi or tri-component copolymers of styrene and hydrogenated ethylene, propylene, butylene. Nylon 66 and hydrophobic cellulose derivatives.

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<sup>1</sup> U.S. Patent No. 6,570,054 at col. 25, ln. 24-28.

<sup>2</sup> Specification, p. 7, ¶18.

<sup>3</sup> "As used herein, the term 'absorbent article' refers to a device which absorbs and retains body exudates. Examples of disposable absorbent articles include feminine hygiene garments such as sanitary napkins, panty-liners and tampons, diapers, incontinence briefs, diaper holders, training pants, and the like." See Gatto, et al. at col. 25, lines 20-28.

<sup>4</sup> See Gatto, et al. at col. 25, line 63 to col. 26, line 1.

Applicants note that Gatto, et al. do not disclose ethylene/propylene/styrene copolymers alone or in combination with mineral oil or petrolatum, or butylene/ethylene/styrene copolymers alone or in combination with mineral oil or petrolatum. Specifically, the "bi or tri-component copolymers of styrene and hydrogenated ethylene, propylene, butylene" rheology enhancers listed in the above quoted passage of Gatto, et al. require the copolymer to contain hydrogenated ethylene. In contrast, the ethylene/propylene/styrene copolymer and butylene/ethylene/styrene copolymer rheology enhancers listed in claim 1 of the present invention are copolymers comprising ethylene, not hydrogenated ethylene.

Gatto, et al. furthermore fail to disclose ethylene/vinyl acetate copolymers alone or in combination with polyethylene. Although the above quoted passage of Gatto, et al. does disclose "polyethylene and acrylic acid or vinyl acetate copolymers" as rheology enhancers, these copolymers are copolymers of polyethylene and acrylic acid or copolymers of polyethylene and vinyl acetate, not an ethylene/vinyl acetate copolymer.

Additionally, Gatto, et al. fail to disclose the combination of mineral oil and styrene as a rheology enhancer. Although Gatto, et al. do state that their compositions may comprise mineral oil,<sup>5</sup> there is no disclosure in Gatto, et al. that the compositions described therein may also comprise styrene. In fact, the only mention of styrene in Gatto, et al. is in the above cited passage, which merely indicates that styrene may be present as part of various copolymers.

Additionally, applicants respectfully note that none of the passages cited by the Office disclose any of the specific rheology enhancers listed in applicants' claim 1:

1. Column 10, lines 10-28 of Gatto, et al. lists various skin care ingredients that may be used in the skin care composition of Gatto, et al., including several emollients such as mineral oil and petrolatum. This cited passage does not, however, disclose ethylene/propylene/styrene copolymers, butylene/ethylene/styrene copolymers, ethylene/vinyl acetate copolymers, or styrene.<sup>6</sup>

2. The bottom of column 13 sets forth the amounts of rheological agents that may be included in the compositions of Gatto, et al. but does not disclose any of the rheology enhancers listed in applicants' claim 1.

3. Column 14, lines 10-30 describes fumed silica that may be used as rheological agents in the compositions of Gatto, et al., but does not disclose any of the rheology enhancers listed in applicants' claim 1.

4. Column 14, lines 50-67 lists various organoclays that may be used as rheological agents in the compositions of Gatto, et al. The organoclays may be mixed with, for example, mineral oil. This cited passage does not, however, disclose ethylene/propylene/styrene copolymers, butylene/ethylene/styrene copolymers, ethylene/vinyl acetate copolymers, or styrene.

5. The passage on the bottom of column 15 (which lists various polymeric rheology enhancers that may be used in the compositions of Gatto, et al.) is discussed above, and fails to disclose any of the rheology enhancers listed in applicants' claim 1.

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<sup>5</sup> See Gatto, et al., col. 16, line 54.

<sup>6</sup> As noted above, the rheology enhancers listed in claim 1 include ethylene/propylene/styrene copolymers alone or in combination with mineral oil or petrolatum; butylene/ethylene/styrene copolymers alone or in combination with mineral oil or petrolatum; and mineral oil and styrene, among others, but do not include mineral oil or petrolatum alone.

6. Column 16, lines 10-17 lists various waxes that may be included in the compositions of Gatto, et al., but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

7. The bottom of column 16 to column 17, line 57 lists various emollients that may be included in the compositions of Gatto, et al., but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

8. Column 20, line 30 to column 21, line 43 lists various polyhydroxy fatty acid esters that may be included in the compositions of Gatto, et al., but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

9. Column 22, lines 38-60 lists various immobilizing agents (and amounts thereof) that may be included in the compositions of Gatto, et al., but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

10. The bottom of column 24 lists additional components that may be included in the compositions of Gatto, et al., but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

11. Column 25, lines 20 to column 26, line 20 (which defines "absorbent article" and describes the general configuration of an absorbent article) is discussed above, and fails to disclose any of the rheology enhancers listed in applicants' claim 1.

12. Columns 37-38, Example 1 describes the preparation of a composition that comprises petrolatum, stearyl alcohol, ZnO predispersion, and fumed silica, but fails to disclose any of the rheology enhancers listed in applicants' claim 1.

13. Tables 2, 3, and 7 list components of various compositions of Gatto, et al. including, for example, petrolatum. However, none of the cited tables disclose

ethylene/propylene/styrene copolymers, butylene/ethylene/styrene copolymers, ethylene/vinyl acetate copolymers, or styrene.

As can be seen from the above discussion, none of the passages cited by the Examiner disclose the rheology enhancers set forth in applicants' claim 1. If the Office believes that Gatto, et al. does disclose the rheology enhancers set forth in applicants' claim 1, applicants respectfully request the Office point to support in the case. The support previously noted by the Office is discussed above and fails to disclose any of these rheology enhancers.

As stated in M.P.E.P. §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Since Gatto, et al. fail to disclose a tissue product comprising a fibrous substrate material and a lubricating formulation, and do not disclose any of the specific rheology enhancers listed in claim 1, Gatto, et al. fail to disclose each and every limitation of claim 1. As such, claim 1 is novel over Gatto, et al.

Claims 2-21, 23-29, and 65 depend from claim 1 and are therefore patentable for the same reasons as set forth above for claim 1 as well as for the additional elements they require.

Claim 30 is similar to claim 1 except further requires the lubricating formulation to have a melt point viscosity of from about 5000 cPs to about 1,000,000 cPs and a process temperature viscosity of from about 50 cPs to about 50,000 cPs. Claim 30 is patentable for the same reasons as set forth above for claim 1 as well as for the additional elements it requires.

Claims 31-47, 49-56, and 67 depend from claim 30 and are therefore patentable for the same reasons as set forth above for claim 1 as well as for the additional elements they require.

Claim 57 is directed to a method of manufacturing a facial tissue comprising introducing a lubricating formulation onto a tissue substrate, the lubricating formulation being present on the tissue substrate in an amount of from about 1% (by weight of the dry tissue) to about 30% (by weight of the dry tissue) and comprising from about 10% (by total weight of the formulation) to about 89% (by total weight of the formulation) of an emollient, from about 10% (by total weight of the formulation) to about 50% (by total weight of the formulation) of a structurant, and from about 0.1% (by total weight of the formulation) to about 40% (by total weight of the formulation) of a rheology enhancer, wherein the lubricating formulation has a melt point viscosity of from about 5000 cPs to about 1,000,000 cPs and a process temperature viscosity of from about 50 cPs to about 50,000 cPs, wherein the rheology enhancer is selected from the group consisting of ethylene/propylene/styrene copolymers alone or in combination with mineral oil or petrolatum; butylene/ethylene/styrene copolymers alone or in combination with mineral oil or petrolatum; ethylene/vinyl acetate copolymers alone or in combination with polyethylene; mineral oil and styrene; and combinations thereof.

Claim 57 is patentable for similar reasons to those set forth above for claim 1. In particular, Gatto, et al. fail to disclose introducing a lubricating formulation onto a tissue substrate, and do not disclose any of the specific rheology enhancers listed in claim 57. Claims 58-63, and 69 depend from claim 57 and are therefore patentable for the same

reasons as set forth above for claim 57 as well as for the additional elements they require.

Claim 70 is directed to a tissue product comprising a fibrous substrate material and a lubricating formulation, the lubricating formulation comprising from about 10% (by total weight of the formulation) to about 89% (by total weight of the formulation) of an emollient, from about 10% (by total weight of the formulation) to about 50% (by total weight of the formulation) of a structurant, and from about 0.1% (by total weight of the formulation) to about 40% (by total weight of the formulation) of a rheology enhancer, wherein the rheology enhancer is selected from the group consisting of mineral oil and ethylene/propylene/styrene copolymers; mineral oil and butylene/ethylene/styrene copolymers; mineral oil and styrene; and combinations thereof.

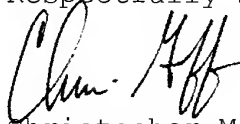
Claim 70 is patentable for the same reasons as set forth above for claim 1.



**CONCLUSION**

In light of the foregoing, applicants request reconsideration of the rejection of claims 1-21, 23-47, 49-63, 65, 67, and 69-70 and allowance of all pending claims. The Commissioner is hereby authorized to charge any fee deficiency in connection with this response to Deposit Account Number 19-1345.

Respectfully submitted,



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